



U.S. Department of Justice

United States Attorney
Southern District of New York

86 Chambers Street
New York, New York 10007

March 19, 2014

By ECF

The Honorable James L. Cott
United States Magistrate Judge
United States Courthouse
500 Pearl Street
New York, NY 10007-1312

Re: *Janis Remer v. Kathleen Sebelius*, 13 Civ. 7110 (PAC) (JLC)

Dear Judge Cott:

This Office represents Kathleen Sebelius, Secretary of the United States Department of Health and Human Services, and Marilyn Tavenner, Administrator of the Centers for Medicare and Medicaid Services, (together the “Defendants”) in the above-referenced action in which *pro se* Plaintiff Janis Remer (“Plaintiff”) asserts causes of action pursuant to Title VII of the Civil Rights Act of 1964 (“Title VII”), 42 U.S.C. § § 2000e, *et seq.*, and the Age Discrimination in Employment Act of 1967 (“ADEA”), 29 U.S.C. § § 621-634, *et seq.* The matter is assigned to Your Honor for general pretrial management. Defendants submit this letter to respectfully request that the Court set April 14, 2014 as a deadline for its time to respond to the complaint in the instant action. Plaintiff does not consent to this request.¹

In her complaint, which was filed with the Court on October 7, 2013, but which was not served on, or otherwise received by, this Office until February 21, 2014, Plaintiff alleges that, from March 2010 through June 17, 2013, she has been subject to “continuous harassment verbal remarks, hostile work environment,” a “13 day suspension,” and retaliation “based on prior and current EEO cases.” Compl. 3, ¶¶ B, E. Plaintiff’s complaint additionally references five separate charges which she has made to the Equal Employment Opportunity Commission (“EEOC”). *Id.* at 3, ¶ III.A.

Defendants intend to file a motion to dismiss the complaint, relying heavily on claim exhaustion grounds. Defendants intend to address in their motion all of the claims which Plaintiff asserted in the five charges that Plaintiff filed with the EEOC. However, due to the number of filed EEOC charges and the 10-20 claims asserted in each charge, Defendants would benefit from additional time to prepare their response. Accordingly, Defendants request that the Court set April 21, 2014 as Defendants deadline to respond.

¹ Defendants note that Plaintiff has never served the Attorney General Holder. Accordingly, pursuant to Rule 4(i) of the Federal Rules of Civil Procedure, Plaintiff has yet to properly effectuate service in the instant action. Defendants’ current request is not intended to act as a waiver of defenses, however, and instead seeks merely to establish a schedule by which the parties may timely proceed with the litigation.

Defendants note that, in a telephone conversation between the undersigned counsel and Plaintiff regarding Defendants' plan to submit this request, Plaintiff communicated to Defendants that, due to a suspension, she is presently prohibited from "conducting official CMS business at this time." Plaintiff further informed Defendants that she is of the view that, as a result of her suspension, she may not be able to respond to the Defendants' letter until after her suspension concludes on March 21, 2014. The undersigned counsel informed Plaintiff that she would convey to the Court that Plaintiff had communicated this information.

Thank you for your consideration of this request.

Respectfully,

PREET BHARARA
United States Attorney for the
Southern District of New York
Attorney for the Defendant

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